

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: INCRETIN MIMETICS  
PRODUCTS LIABILITY  
LITIGATION } MDL Case No.13md2452 AJB (MDD)  
} As to all related and member cases  
} ORDER FOLLOWING MAY 28, 2014  
CASE MANAGEMENT  
CONFERENCE }

On May 28, 2014, the Court held a Case Management Conference to address remaining issues following the March 4, 2014 Case Management Conference as well as issues raised by the Parties in their Joint Agenda. The following is a summary of the proceedings.

1. The parties are continuing to meet and confer regarding a data end-point with respect to Defendant Eli Lilly. Specifically, the parties will continue discussions as to the date for eight of the designated custodians. The parties agree that the data end- point for the two Lilly custodians with direct involvement in clinical trials will be February 28, 2014. Moreover, Defendant Eli Lilly has agreed to provide Plaintiffs' counsel a list of fourteen countries where Eli Lilly has involvement with regards to the drug Byetta. The parties will update the Court regarding these efforts at the next case management conference on July 1, 2014.

- 1       2. Defendants have agreed to certify complete production of “FDA files” as
- 2       defined and outlined by the Court’s March 25, 2014 Order. (Doc. No. 377.)
- 3       All supplements will be provided by June 1. Counsel for Defendants have
- 4       represented that “EMA files” will be made available by June 16, 2014, with
- 5       the exception of Defendant Eli Lilly who will produce the files on June 16,
- 6       2014 or soon thereafter, at a date they will shortly designate for plaintiffs.
- 7       3. All custodian files must be produced on or before June 16, 2014. The
- 8       Parties will inform the Court as to completion of this at the July 1, 2014
- 9       status conference.
- 10      4. Plaintiffs notified the Court that around 50% of Defendants’ responses
- 11       made to Plaintiff’s interrogatories state that the information will be provided
- 12       at a future date. The Court instructed that Defendants must specify a
- 13       tentative date as to when the information will be made available to Plain-
- 14       tiffs.
- 15      5. With regards to the Court’s May 14, 2014 Order denying the motion to file
- 16       documents under seal, the Parties have informed the Court that the Order is
- 17       unworkable. There is a dispute between the Parties as to if sealing is
- 18       warranted for many of the documents designated as Confidential. Accord-
- 19       ingly, Defendants must file their motion to seal setting forth the legal
- 20       standard and analysis by May 29, 2014. Plaintiffs will file their response by
- 21       June 5, 2014. The Court will continue to hold the currently lodged docu-
- 22       ments under seal.
- 23      6. The Court advised the Parties to amend the current Protective Order by
- 24       including a clause on advance notice of a parties intention to file documents
- 25       marked as “confidential” by any other party.
- 26      7. The Parties are continuing to work on drafting deposition and privilege
- 27       protocols. The Court will intervene if the Parties are unable to resolve all
- 28       disputes. A standardized format for privilege logs will be advantageous.

1           The Parties will inform the Court on efforts made at the July 1, 2014 status  
2           conference.

3           8. The Parties are in the process of drafting a proposed Decedent Estate Order  
4           allowing the Court to appoint interim estate representatives for purposes of  
5           this litigation.

6           9. There are currently fifty-five cases in which the alleged injury is thyroid  
7           cancer. These cases are not included within the MDL. Counsel will confer  
8           on a plan of coordination of all thyroid cases in this district.

9           10. The Court advised counsel that all meet and confer proceedings need to be  
10           in person or by telephone. While letters and emails can be useful to set  
11           agenda's and confirm agreements, they do not in and of themselves satisfy  
12           the meet and confer requirements of this court, its local rules or Fed. R. Civ.  
13           P. 26.

14           The next Case Management Conference is scheduled for **July 1, 2014 at 9:00 am.**

15           At approximately 9:00 am, the Court will meet and confer with members of Plaintiffs'  
16           Lead and Liaison Counsel and Defendants' Steering Committee in chambers. This  
17           informal meeting will be followed by an on the record session beginning at approxi-  
18           mately 10:00 am in Courtroom 3B. The parties may appear in person or telephonically  
19           for the July 1, 2014 conference. Any call-in instructions, topics for discussion, and a list  
20           of the individuals who will be appearing telephonically must be submitted to the Court  
21           via e-file no later than **June 27, 2014.**

22           Oral arguments on Defendants' pending motion for summary judgment will  
23           commence shortly thereafter.

24           IT IS SO ORDERED.

25  
26           DATED: June 2, 2014

  
27           \_\_\_\_\_  
28           Hon. Anthony J. Battaglia  
                 U.S. District Judge